

**U.S. Chamber of Commerce Testimony**  
**On**  
**Environmental Protection Agency Affordable Clean Energy Rule proposal**  
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The U.S. Chamber of Commerce strongly supports the Environmental Protection Agency's (EPA) effort to establish durable, achievable, and lawful carbon reduction guidelines in its Proposed Affordable Clean Energy Rule, or "ACE." The ACE proposed rule is a refreshing departure from the dramatic and unlawful expansion of EPA authority that was embodied in the prior administration's Clean Power Plan (CPP). Quite simply, the CPP was a bad deal for America. It would have driven up electricity costs for businesses, consumers, and families, imposed tens of billions in annual compliance costs, and would have reduced our nation's global competitiveness.

The Supreme Court halted the CPP in 2016, providing a strong indicator of that plan's shaky legal foundation. While we recognize and concur with the consensus that the climate is changing and that human activity is contributing to these changes, the U.S. Chamber believes that there is a better way than the CPP to address carbon emissions under the Clean Air Act, and commends the EPA for producing a proposed rule that falls clearly within the agency's statutory authority.

Ultimately, at its most basic level, addressing climate change is primarily a technology challenge. That is why the Chamber stresses technology and innovation, supported by flexible and practical policies, as the best approach to manage climate risks and reduce global emissions. The private sector has an irreplaceable role in developing, financing, building, and operating the new energy and other technologies of the future.

That said, the ACE proposed rule returns to decades of agency precedent, rebalances federal and state roles, and aims to provide both certainty and durability – all virtues that were absent from the CPP.

Today I will highlight seven ways in which the ACE proposed rule represents a dramatic improvement over the CPP. I will explain how the plan is a welcome return to the EPA's statutory authority and to the spirit of cooperative federalism that serves as the foundation to the Clean Air Act.

First, and perhaps most importantly, the ACE proposal establishes a "Best System of Emissions Reduction" based upon emissions reduction upgrades and activities that can be accomplished "inside the fence" of regulated facilities—in this case, power plants. This important limitation on the

development of EPA greenhouse gas reduction guidelines renders ACE consistent with the relevant statutory text, accompanying regulations, and historic EPA practice.

By contrast, the CPP's "outside the fence" design attempted an unprecedented expansion of EPA authority across the entire power sector – rather than just over the statutorily regulated sources. It would have shut down plants, imposed fuel-switching at others, and forced the construction of new, lower-emitting resources and associated transmission infrastructure. The ACE proposal will reduce greenhouse gas emissions without expanding EPA's authority, which will ultimately enhance the durability and legality of the ACE rule.

Second, ACE epitomizes the fact that environmental improvement and economic growth are not mutually exclusive. Under the ACE proposal, emissions of carbon dioxide and criteria pollutants will continue to decline more rapidly than if the CPP was withdrawn without replacement. Carbon dioxide, sulfur dioxide, nitrous oxide, and mercury emissions will all be reduced by 2030 as compared to an electric power sector free of carbon regulations under the Clean Air Act. Altogether, ACE will lead to power sector carbon dioxide emissions in 2030 that are 33% below 2005 levels.

Third, the ACE proposal literally puts states in the driver's seat by empowering states to utilize the ACE proposal's guidelines to develop, submit, and achieve compliance with carbon emission performance standards tailored to their individual circumstances. Twenty-seven states pushed back in court against the CPP's usurpation of the Clean Air Act's underlying principle of cooperative federalism. Instead, the ACE proposal reaffirms the statutory obligation for EPA to defer to the unique circumstances present within states and across the regulated sources operating therein.

Fourth, unlike the CPP's misleading claims of "flexibility," the ACE proposal truly provides options for states in achieving compliance. While the CPP proclaimed its "flexibility" a whopping 280 times, the ACE proposal actually embodies it without unjustified repetition, through a cooperative framework that relies on state regulators to develop and implement carbon standards that best suit the unique circumstances of the facilities and electricity system within their own borders. Additional compliance mechanisms could further enhance this flexibility.

Fifth, the ACE proposal permits states to consider the remaining useful life of regulated facilities as they craft standards and compliance strategies. The CPP prohibited any consideration of a regulated facility's age or projected lifespan, forcing premature closures that made little economic or environmental sense. ACE restores this important statutory requirement by empowering states to consider unit-specific factors, such as remaining useful life.

Sixth, the ACE proposal provides a welcome acknowledgment from the EPA that the agency's New Source Review (NSR) program is in need of long overdue reform. NSR imposes unnecessary costs, uncertainties, and delays that serve to discourage investment in and the modernization of industrial facilities. The NSR obstacle is pervasive across the power, manufacturing, and industrial sectors and is not limited to coal-fired power plants. As such, the Chamber strongly supports not just NSR reform that permits efficient compliance with the ACE rule, but also broad NSR reform that encourages facility upgrades that enhance both the efficiency and environmental profiles of regulated entities across the economy.

Seventh, but certainly not least, the Chamber commends the vastly improved regulatory process undertaken by the EPA through its solicitation of comments and input in advance of its introduction of the ACE proposal. In a welcome departure from EPA's imposition of the extraordinarily complex CPP proposal without any opportunity for public input, the EPA here took the extra step of issuing an Advance Notice of Proposed Rulemaking to solicit input and advice to enhance the design of the ACE proposal. This extra formal step – which generated more than 270,000 public comments – provided an invaluable additional layer of feedback that enhance the design and future durability of the ACE proposed rule.

The U.S. Chamber appreciates the opportunity to provide comments today on the EPA's ACE proposal. ACE represents an important step toward a more collaborative process that fits within EPA's statutory authority and will result in achievable progress through more practical, state-driven programs. The ACE approach will help continue the trend of lower electric power sector emissions while preserving America's energy edge and respecting environmental law.